



PATENT
Docket No: 041892-0205

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Scott Jeffrey SHERR, Ira Steven RUBENSTEIN, Yair LANDAU, Andrew C. FRANK, Brian David LAKAMP, Bryan Gentry SPAULDING, Charles Jonathan EVANS, Everton Anthony SCHNABEL, Hartmut OCHS, Jeremy Eli BARNETT, Seth David PALMER, Todd Michael HENDERSON, William W. CHONG, Bruce FOREST, and Steven KOENIG

Serial No. 09/828,406

**COPY OF PAPERS
ORIGINALLY FILED**

Filed: April 6, 2001

For: **WEBSITE SYSTEM AND PROCESS FOR SELECTION AND DELIVERY OF
ELECTRONIC INFORMATION ON A NETWORK**

**DECLARATION OF TED RITTMASER IN SUPPORT OF
FILING ON BEHALF OF OMITTED INVENTOR
UNDER 35 U.S.C. 116 AND 37 C.F.R. 1.47**

I, Ted Rittmaster, hereby declare as follows:

1. I am submitting this Declaration with the accompanying "Petition In Support Of Filing On Behalf Of Omitted Inventor Under 35 U.S.C. 116 And 37 C.F.R. 1.47."

2. Attached as Exhibits 1-9 hereto are copies of documents titled "Confidential Information and Invention Assignment Agreement." Each of the nine Agreements are between Viant and one of the nine omitted co-inventors. Each of these nine Agreements has been signed by one of the nine omitted co-inventors.

3. Each of these nine Agreements (Exhibits 1-9) contains a clause (clause 3(b)) wherein the signing party agrees, *inter alia*, to "hereby assign to the Company [Viant], or its designee, all my right, title, and interest in and to any and all inventions, original works of authorship, developments, concepts, improvements or trade secrets, whether or not patentable or registrable under copyright or similar laws, which I may solely or jointly

conceive or develop or reduce to practice, or cause to be conceived or developed or reduced to practice” during their employment with the Company.

4. Also attached as Exhibit 10 hereto is a copy of a document titled “Master Services Agreement between Viant and Sony Pictures Digital Entertainment, Inc.” This Master Services Agreement contains the signatures of Dwayne Nesmith, designated therein as the Chief Financial Officer of Viant Corporation, and Yair Landau, designated therein as the President of Sony Pictures Digital Entertainment, Inc.

5. This Master Services Agreement (Exhibit 10) includes a clause (clause 4(a)) stating, *inter alia*, that the customer (Sony Pictures Digital Entertainment, Inc.) “shall own all right, title, and interest in and to any technology or information otherwise developed or created solely for customer by Viant, including any intellectual property rights therein.”

6. Also attached as Exhibit 11 hereto is a hardcopy of an e-mail, dated February 28, 2001, sent by me to Brennan Wall, Esq., a Viant attorney, wherein I request Mr. Wall’s assistance in collecting, *inter alia*, the current mailing addresses of omitted co-inventors Brian David Lakamp, Charles Jonathan Evans, Everton Anthony Schnabel, Hartmut Ochs, Jeremy Eli Barnett, Todd Michael Henderson, William W. Chong, Bruce Forest, and Steven Koenig

7. Also attached is a hardcopy of an e-mail (also Exhibit 11), dated March 2, 2001, and sent to me by Mr. Wall, wherein Mr. Wall provides an address for each of the co-inventors named in paragraph 6 above.

8. Also attached as Exhibit 12 hereto is a copy of a letter, dated September 26, 2001, which I prepared and mailed to Mr. Wall wherein I state that “[a]s we are required to make reasonable attempts to obtain signatures from inventors, we are now requesting

your assistance in obtaining those signatures. You have requested that we send communications to Viant inventors to you, rather than directly to the Viant employees. Accordingly, enclosed are copies of documents for the above-listed Viant inventors [*inter alia*, omitted co-inventors Charles Jonathan Evans, Everton Anthony Schnabel, Hartmut Ochs, Jeremy Eli Barnett, Todd Michael Henderson, William W. Chong, Bruce Forest, and Steven Koenig]. For each of the enclosed documents (application, declaration and assignment), please have the identified Viant inventor review the documents and, if accurate, sign, date and return the documents to us." I then informed Mr. Wall that "the documents must be filed with the U.S. Patent and Trademark Office (USPTO) within a preset time period set by the USPTO, as follows: For the application identified by our docket no. 041892.0205, the next deadline is October 27, 2001. . . ." A copy of the application, an assignment form, and a declaration form for each of the omitted co-inventors were enclosed in this letter to Mr. Wall.

9. The assignment and declaration forms for Charles Jonathan Evans, Hartmut Ochs, and Jeremy Eli Barnett, as well as the declaration forms for Everton Anthony Schnabel, Todd Michael Henderson, and William W. Chong, which were included as enclosures in the letter sent to Mr. Wall (Exhibit 12), were not executed and returned to me.

10. Also attached as Exhibit 13 hereto is a copy of a letter, dated October 4, 2001, which I prepared and mailed to Mr. Wall, wherein I state that "[f]urther to our letters of July 27, 2001, and September 5, 2001, we still have not received any response from the several Viant (or former Viant) employees or contractors that were named as inventors As we have previously informed you, we are required to seek signatures from the inventors. Accordingly, we again request your assistance in that endeavor."

11. Neither the executed assignment and declaration forms of Charles Jonathan Evans, Hartmut Ochs, and Jeremy Eli Barnett, nor the executed declaration forms of

Everton Anthony Schnabel, Todd Michael Henderson, and William W. Chong, have been received by me as of the date of this Declaration.

12. Also attached as Exhibit 14 hereto is a copy of a letter, dated November 27, 2001, which I prepared and mailed to Susie Oh, Esq., an attorney at Sony Pictures Entertainment, asking her to "assist our efforts to have [omitted co-inventor] Brian Lakamp review and execute the enclosed documents" for the above-referenced application. Enclosed in this letter to Ms. Oh were a copy of the application, and assignment and declaration forms for Mr. Lakamp's signature.

13. Also attached as Exhibit 15 hereto is a copy of a letter, dated November 27, 2001, which I enclosed in the letter to Ms. Oh (Exhibit 14). This letter is addressed to Brian David Lakamp at his last known address as provided to me by Mr. Wall. (See paragraph 7). Mr. Lakamp was asked in the letters to "please review the accompanying documents and sign and return the declaration and assignment form to us as soon as possible and no later than **December 7, 2001.**"

14. Executed assignment and declaration forms for Mr. Lakamp have not been received by me as of the date of this Declaration.

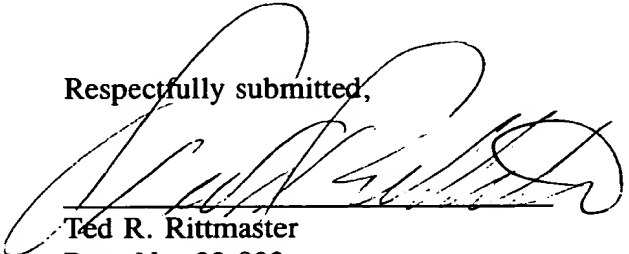
15. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements

PATENT
Docket No: 041892-0205

and the like so made are punishable by fine or imprisonment, or both under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

12-27-01
Date

Respectfully submitted,


Ted R. Rittmaster
Reg. No. 32,933

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LAST KNOWN ADDRESS OF THE OMITTED INVENTORS

Full name of omitted inventor:

Brian David Lakamp

Last known address of omitted inventor:

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Full name of omitted inventor:

Charles Jonathan Evans

Last known address of omitted inventor:

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Full name of omitted inventor:

Everton Anthony Schnabel

Last known address of omitted inventor:

428 N. Laurel Avenue, Los Angeles, California 90048

Full name of omitted inventor:

Hartmut Ochs

Last known address of omitted inventor:

818 Parkman Avenue, Los Angeles, California 90026

Full name of omitted inventor:

Jeremy Eli Barnett

Last known address of omitted inventor:

563 Via de la Paz, Pacific Palisades, California 90272

Full name of omitted inventor:

Todd Henderson

Last known address of omitted inventor:

620 Swarthmore Avenue, Pacific Palisades, California 90272

Full name of omitted inventor:

William Chong

Last known address of omitted inventor:

20 Confucius Plaza, #18M, New York, New York 10002

Full name of omitted inventor:

Bruce Forest

Last known address of omitted inventor:

10 Spring Valley Road, Weston, Connecticut 06883

Serial No.: 09/828,406

Full name of omitted inventor:

Steven Koenig

Last known address of omitted inventor:

1751 Croner Avenue, Menlo Park, California 94025

**IDENTIFICATION OF PERSON MAKING THIS
DECLARATION**

Name of Declarant: Ted R. Rittmaster

Address of Declarant: FOLEY & LARDNER
2029 Century Park East, 35th Floor
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A check for \$130.00, as prescribed by 37 C.F.R. 1.17(h) ~~accompanies this~~
Petition and Declaration. The Commissioner is authorized to charge any
underpayment or credit any overpayment to deposit account No. 50-0872.